

REMARKS/ARGUMENTS

The rejections presented in the Office Action dated September 24, 2007 (hereinafter Office Action) have been considered but are believed to be improper. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

Applicant respectfully traverses each of the § 103(a) rejections based at least upon the teachings of U.S. Publication No. 20020122401 by Xiang *et al.* (hereinafter "Xiang") as combined with those of U.S. Publication No. 2006/0247042 by Walker *et al.* (hereinafter "Walker") because the asserted references alone, or in combination, do not teach or suggest each of the claimed limitations. For example, neither of the asserted references teaches requesting for suspension of data streaming communication on the basis of a first mode change command, as claimed. As acknowledged at page three of the Office Action, Xiang does not teach data streaming communication. Therefore, Xiang must also fail to teach requesting for suspension of data streaming communication, as claimed in each of the independent claims. While the cited portion at paragraph [0007] indicates that a data session may be interrupted if a voice call is received, there is no indication that the interrupted data session is, or would be, a data streaming communication. As identified in Applicant's Specification, for example at paragraph [0025], data streaming communication refers to the transmission of real-time data in time-synchronized streams of continuous media. In contrast, Xiang indicates at paragraph [0007] that the discussed data sessions are non-real-time. Also, the cited portion at paragraph [0029] of Xiang refers to putting a voice call on hold and not a data streaming communication, as claimed. Thus, Xiang does not teach or suggest data streaming communication or requesting suspension thereof, as claimed.

Walker has not been shown to overcome the above-discussed deficiencies of Xiang. First, the cited portions of Walker do not teach or suggest that the service provided to a gamer is a data streaming communication, as claimed. Second, Walker has not been shown to teach requesting for suspension of data streaming communication on the basis of a first mode change command. Rather, Walker is directed to providing a service to a player to

encourage the player to continue or increase gaming such as in a casino. Instead of allowing the player to suspend a service, and the corresponding gaming, the player is notified that service will be terminated if the requisite level of gaming is not maintained (e.g., paragraphs [0237] and [0238]). Thus, Walker also has not been shown to teach or suggest data streaming communication or requesting suspension thereof, as claimed. As neither of the asserted references has been shown to at least teach these limitations, any combination thereof must also fail to teach such limitations. Without a presentation of correspondence to each of the claimed limitations, the § 103(a) rejections should be withdrawn.

With particular respect to the § 103(a) rejection of Claims 17-25 based upon the above-discussed combination of Xiang and Walker, in view of U.S. Publication No. 2005/0123108 by Smith (hereinafter “Smith”), Applicant respectfully traverses. As discussed above, the combination of Xiang and Walker at least fails to teach requesting for suspension of data streaming communication as claimed in independent Claims 17 (from which Claims 18-24 depend) and 25. The Examiner’s further reliance on Smith has not been shown to overcome the above-discussed deficiencies in the underlying combination. Thus, the asserted combination of the teachings of Xiang, Walker and Smith does not teach each of the claimed limitations of Claims 17-25, and the rejection should be withdrawn.

In addition, even with an introduction of a data streaming communication to the teachings of Xiang, such a modification would not correspond to the claimed invention. Xiang is directed to modifying the telecommunication network via extensive and expensive modifications. In contrast, the claimed invention is directed to modifying a mobile terminal to support suspension of streaming data (*see, e.g.*, Claims 9, 17 and 25). Since Xiang does not teach or suggest modifying a mobile terminal, even if Walker were to teach the limitations absent from Xiang, the asserted combination would not correspond to each of the claimed limitations. Applicant accordingly requests that each of the rejections be withdrawn.

Dependent Claims 2-8, 10-16 and 18-24 depend from independent Claims 1, 9 and 17, respectively. Each of these dependent claims also stands rejected under 35 U.S.C.

§ 103(a) as being unpatentable over the above-discussed combinations of Xiang, Walker and Smith. While Applicant does not acquiesce to any particular rejections to these dependent claims, including any assertions concerning descriptive material, obvious design choice and/or what may be otherwise well-known in the art, these rejections are moot in view of the remarks made in connection with the independent claims above. These dependent claims include all of the limitations of their respective base claims and any intervening claims and recite additional features which further distinguish these claims from the cited references. “If an independent claim is nonobvious under 35 U.S.C. §103, then any claim depending therefrom is nonobvious.” MPEP § 2143.03; *citing In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Therefore, dependent Claims 2-8, 10-16 and 18-24 should also be patentable over the combinations of Xiang, Walker and Smith.

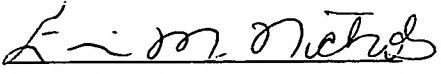
It should also be noted that Applicant does not acquiesce to the Examiner’s statements or conclusions concerning what would have been obvious to one of ordinary skill in the art, obvious design choices, common knowledge at the time of Applicant’s invention, officially noticed facts, and the like. Applicant reserves the right to address in detail the Examiner’s characterizations, conclusions, and rejections in future prosecution.

Authorization is given to charge Deposit Account No. 50-3581 (KOLS.101PA) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

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